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09/912,285	07/24/2001	George A. Teacherson		5196

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EXAMINER
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JULES, FRANTZ F

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 09/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/912,285

Applicant(s)

TEACHERSON, GEORGE A.

Examiner

Frantz F. Jules

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 14-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the recitation of "said trucks have cooling fins attached thereto for heat dissipation" in claim 7, lines 1-2 and claim 16 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Similar problem exists in claim 16, and claim 20.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the recitation of "means for coupling differing railcar and engine configurations together; means having differing truck configurations with standard appearance and as desired having cooling fins" in claim 20, lines 5-7 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

3. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

### ***Claim Objections***

4. Claim 17 is objected to because of the following informalities:

In claim 17, line 1, the word "the should be replaced by -A-.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

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5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-9, 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said elements" in line 10. There is insufficient antecedent basis for this limitation in the claim.

In claim 20, line 1, the phrase "said process provides differing configurations of said means providing said manner that facilitates railroad operations" is confusing as it is unclear what particular information applicant is convey.

In claim 20, lines 5-7, the phrase "means for coupling differing railcar and engine configurations together; means having differing truck configurations with standard appearance and as desired having cooling fins" is confusing as it unclear what applicant is referring to as means having differing truck configurations and means for coupling differing engine configurations together when these structures are not in the drawings .

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-2, 6, 8-12, 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Krause.

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Claims 1-2, 6, 8-12, 17-19

Krause teaches all the limitations of claims 1-2, 6, 8-12, 17-19 by showing in figs. 1-4 an articulated railcar comprising a railcar body (12c), a support plate (58A), means (58) for mounting said support plate upon said railcar body (12c) at least one set of railroad trucks (24), mounting means (44) attached to said at least one set of railroad trucks (24), at least one bearing (42) mounted horizontally upon said mounting means, railroad couplers (16, 18). The elements being disposed in vertical fashion having said at least one set of trucks on the bottom in contact with rails (28), said mounting means (44), said at least one bearing, said support plate (58A), said means (58) for mounting said support plate and said railcar body (12c) situated on top, all in contact when said railcar is coupled to additional ones of said railcar via said couplers (16, 18), and said railcar is separably supported at the juncture of said support plate (58A) and said at least one bearing (42).

Regarding the elements disposed lower in said vertical fashion than said at least one bearing are generally placed in tension when said railcar and said support plate and said means for mounting said support plate rest all weight of said elements upon said at least one bearing, as recited in claim 2, it is the examiner's position that the element disposed lower than the bearing are placed generally in tension given the fact that when the railcar rests upon the bearing, the normal tendency of the load is to slide either forward or backward depending on level of flatness of the track.

Regarding the mounting means (44) being made to clear the support plate, as recited in claim 8, it is the examiner's position that when the railcar is lifted out of the truck for

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service the support plate will be separated from bearing and therefore clear the mounting means.

The railcar couplers (16) are mounted first upon the railcars and are equivalently mounted upon said mounting means at connection (30).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3, 7, 13, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krause in view of Barefoot.

**Claim 3**

Regarding using elements below the bearing made of material having the properties of lightweight, ultra-strong material as recited in claim 3, It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Krause to include the use of materials below the bearing having the properties of lightweight, ultra-strong material in his advantageous system, as material selection is a common and everyday occurrence throughout the truck load bearing design art and the specific use of materials below the bearing having the properties of lightweight, ultra-strong material would have been an obvious matter of design preference depending upon such factors as the weight of the object to be carried by the truck bearing, the yield strength requirement of the side mounting means material; the ordinarily skilled artisan choosing

the best stress profile corresponding to a particular loading imposed on the side walls which would most optimize the cost and performance of the device for a particular application at hand, based upon the above noted common design criteria.

Claims 7, 16

Krause teaches all the limitations of claims 7, and 16 except for an articulated railcar having cooling fins attached to the truck for heat dissipation. The general concept of adding cooling attached to a railcar truck for heat dissipation is well known in the art as illustrated by Barefoot, see Fig. 4, column 7, lines 30-33. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Krause to include the use of cooling fins attached to the truck of in his advantageous articulated railcar as taught by Barefoot in order to prevent overheating of bearing and other component of the railcar truck.

#### ***Allowable Subject Matter***

11. Claims 4-5, 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Claims 14-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

13. Applicant's arguments filed 08/01/02 have been fully considered but they are moot in view of the new grounds of rejection.

### **Conclusion**

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Bedard et al, Wicks et al, Nilesen, Krause, and Abams Jr are cited to show related articulated railcar having mounting means on trucks for supporting bearings.

Forbes et al, Ehrlich et al'115 cited to show related articulated railcar having support plate mounted on the car body for articulation.

The papers filed on >08/01/02< (certificate of mailing dated >insert<) have not been made part of the permanent records of the United States Patent and Trademark Office (Office) for this application (37 CFR 1.52(a)) because of damage from the United States Postal Service irradiation process. The above-identified papers, however, were not so damaged as to preclude the USPTO from making a legible copy of such papers. Therefore, the Office has made a copy of these papers, substituted them for the originals in the file, and stamped that copy:

### **COPY OF PAPERS ORIGINALLY FILED**

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If applicant wants to review the accuracy of the Office's copy of such papers, applicant may either inspect the application (37 CFR 1.14(d)) or may request a copy of the Office's records of such papers (*i.e.*, a copy of the copy made by the Office) from the Office of Public Records for the fee specified in 37 CFR 1.19(b)(4). Please do **not** call the Technology Center's Customer Service Center to inquiry about the completeness or accuracy of Office's copy of the above-identified papers, as the Technology Center's Customer Service Center will **not** be able to provide this service.

If applicant does not consider the Office's copy of such papers to be accurate, applicant must provide a copy of the above-identified papers (except for any U.S. or foreign patent documents submitted with the above-identified papers) with a statement that such copy is a complete and accurate copy of the originally submitted documents. If applicant provides such a copy of the above-identified papers and statement within **THREE MONTHS** of the mail date of this Office action, the Office will add the original mailroom date and use the copy provided by applicant as the permanent Office record of the above-identified papers in place of the copy made by the Office. Otherwise, the Office's copy will be used as the permanent Office record of the above-identified papers



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(i.e., the Office will use the copy of the above-identified papers made by the Office for examination and all other purposes). This three-month period is not extendable.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 308-8780. The examiner can normally be reached on Monday-Thursday and every other Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 308-0230. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Frantz F. Jules  
Examiner  
Art Unit 3617

FFJ

September 18, 2002



S. JOSEPH MORANO  
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